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Secretary for
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California Regional Water Quality Control Board

Los Angeles Region

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Los Angeles Regional Water Quality Control Board Minutes of December 12, 2002 Regular Board Meeting held at Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, California

INTRODUCTION

The meeting was called to order by Chairperson Diamond at 9:20am.

Board Members Present

Susan Cloke, Francine Diamond, R. Keith McDonald, Bradley Mindlin, and H. David Nahai

Julie Buckner-Levy arrived after Item 10

Board Members Absent

Christopher Pak, Timothy Shaheen

Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Ronji Harris, Robert Sams, Jack Price, Steve Cain, Jenny Newman, Jonathon Bishop, Blythe Ponek-Bacharowski, Paula Rasmussen, Wendy Phillips, David Hung, Cassandra Owens, Rodney Nelson, Raymond Jay, Mazhar Ali, Veronica Cuevas-Apulche, Michael Lyons, Dana Cole, Enrique Casas, Renee DeShazo, John Geroch, Weixing Tong, Don Tsai, Toni Calloway, David Koo, Hoan Tang

Others Present

Jacqy Gamble, Las Virgenes Municipal Water District
Andy Hovey, Ventura Regional Sanitation District
Mike Shaw, City of Redondo Beach
Larie Richardson, North Stem Minerals, Inc.
Steve Fleischli, Santa Monica BayKeeper
Michele Howard, Western Benshoof
Jim Colbaugh, Las Virgenes Municipal Water District
Ky Spangler, Suncal Companies
Alex Steele, LA County Sanitation District
Mike Walline, Suncal Companies
Charles Moore, Alagita Marine Research Foundation

Chris Ross
Steve Shestay, Boeing
Steve Braband, Biosolutions, Inc.
Judy Wilson, City of Los Angeles
Gerald McGovern, City of Los Angeles
Donna Chen, City of Los Angeles
Mark Gold, Heal the Bay
Gerry Greene, City of Downey
Dennis McCartin, Home Depot
Dave Burhenn, Burhenn & Gest
Robert Doxsee, City of Burbank

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California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption
For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Matt Liao, Caltrans L.A. District 7
Vanessa Tubaces, Palos Verdes Estates/
Rolling Hills Estates
Joy Krejci, LA County Department of Public Works
Adam Ariki, LA County Department of Public Works
Alan Nelsen, Southland Sod Farms
Gerry Greene, Executive Advisory Committee,
LA County MS4 Permit Cities
Sonja Inglin, Jenkins & Gilchrist
Marianne Yamaguchi, Santa Monica Bay
Restoration Project

Hazel Scotto, LWV
Rufus Young, Burke Williams
& Sorensen
Bob Wu, Caltrans, District 7
Adel Hagekhalil, City of Los Angeles
Traci Minamide, City of Los Angeles
Carrie Inciong, LA County Department
of Public Works
Jessica Stefan, Surfrider Foundation

Pledge of Allegiance

1. Roll Call

A roll call was taken.

2. Order of Agenda.

The Executive Officer made the following changes to the agenda:

- *Item 19 will be heard first after the adoption of the consent items.*

3. Approval of Minutes

The Board approved the minutes from the October 24, 2002 and November 14, 2002 meetings.

4. Adoption of Board Meeting Schedule for 2003

The Board postponed adoption of the 2003 calendar to the January 30, 2003 meeting.

5. Board Member Communications and Ex Parte Disclosure

Chairperson Diamond communicated that she and Board Member Cloke had met with Valerie Shaw and Sharon Rubalcava to discuss various water quality issues.

Dennis Dickerson, Executive Officer, informed the Board members of a proposed upcoming meeting to hear about the Southern California Coastal Water Research Project's Bight '98 monitoring program.



6. Public Forum

Carrie Inciong, Los Angeles County Department of Public Works, gave a presentation on the County's Watershed Management Division.

Board member Cloke asked the County to provide the Board with informational pamphlets on the program and commended the County on their work.

Jim Colbaugh, Las Virgenes Municipal Water District, spoke about the sewage sludge spills that occurred near the Tapia plant in October and December of 2002. He stated that the pipeline break that led to the October spill was caused by external corrosion. Las Virgenes replaced 40 feet of the affected pipe with plastic pipe but a second leak occurred in December 50 feet away from the original break. He reported that no sludge reached water during the second spill. He added that Las Virgenes would replace the entire pipeline around the slope where the spills occurred with nonmetal pipe.

Mark Gold, Heal the Bay, commented on the spill. He pointed out that because the spill happened on a Sunday, it was difficult to reach the appropriate agencies to report the spill. He requested that the Board look into their spill response procedures.

The Board members discussed the need for an emergency spill response procedure in addition to the one implemented by OES. The Board directed staff to make it clear on the Board's outgoing voice mail message to call OES to report a spill.

Adel Hagekhalil, City of Los Angeles Bureau of Sanitation, briefed the Board on the City's Integrated Resources Plan, the fats, oil, and grease caused spill reduction program, and their spill prevention and response planning efforts.

6. Uncontested Items

Items 14, 15, and 16 were removed from uncontested items list. There was a motion to approve the following uncontested items: 8.1-8.6, 9.1-9.5, 11, 13, and 17.

MOTION: By Board Member Cloke, seconded by Board member Nahai, and approved on a voice vote. No votes in opposition.

19. Information Item - Presentation on Marine Debris

Captain Charles Moore, Alagita Marine Research Foundation, gave a presentation on the problem of marine debris. He described the effects the accumulation of plastic in the ocean, including the consumption of plastic by marine animals, the release of toxins during photodegradation of plastic, and the fact that plastic acts as a sponge for other toxins. He explained how far reaching the problem was and described how his research team found debris in the middle of the North Pacific gyre. He then showed a video on the causes and effects of marine debris.



10. Santa Monica Bay Wet Weather Pathogens TMDL

Jonathon Bishop, Regional Programs section chief, provided the Board with some background on the item. He explained that staff would only present changes based on comments made by the Board and stakeholders at the September 26, 2002 Board meeting, when the item was originally presented.

Renee DeShazo, TMDL unit, gave the presentation, including history of the TMDL development and major revisions since the September meeting. The major changes included the addition of a natural sources exclusion approach for bacteria objectives, a revised implementation schedule, the coordination of wet- and dry-weather TMDL revisions, a clarification of elements in the fourth-year revision, and clarification regarding the margin of safety. Ms. DeShazo reviewed the two approaches allowed in the implementation schedule: the integrated water resources (IWR) approach and the single-purpose approach. The schedule would allow no more than 18 years for jurisdictional groups that implement the IWR Approach and no more than 10 years for the single-purpose approach. Ms. DeShazo then reviewed public comments regarding the natural source exclusion approach, the selection of the 90th percentile storm year as the critical condition, the assignment of zero load allocations for non-point sources, the compliance provisions, and the implementation schedule.

Traci Minamide, City of Los Angeles, reviewed the integrated resource approach that the City planned to take in order to implement the TMDL and explained why the plan would take 18 years to implement. She then requested guidance from the Regional Board on how to proceed if agreement among agencies in the jurisdictional groups could not be reached in the required timeframe.

Donna Chen, City of Los Angeles, reviewed the City's concerns with enforcement of geometric mean exceedances. She stated that the single sample geometric mean objective would result in more enforcement actions against those who conducted frequent sampling.

Gerry Greene, City of Downey, representing the Storm Water Executive Advisory Committee, expressed concern about the shortness of the implementation schedule. He reiterated the EAC's belief that BMPs and the iterative process were the best way to manage pollutants.

Mark Gold, Heal the Bay, was supportive overall, but reviewed some of his remaining concerns. He asked for the definition of IRP to be strengthened, objected to the inclusion of the natural source exclusion approach, reiterated his strong objection to the use of the 90th percentile storm year, and opposed the provision that the final compliance dates could be reevaluated in the re-opener.

Adam Ariki, Los Angeles County Department of Public Works, felt that 2 years was not enough time to submit the County's compliance approach. He also felt that there was



not an adequate analysis of non-point sources in the TMDL. He reviewed the County's proposed iterative approach, which included modifying existing BMPs, and stated that it was in line with a recent EPA memo.

Steve Fleischli, Santa Monica BayKeeper, also speaking on behalf of NRDC, recognized this TMDL as an important step but reviewed some remaining concerns. He stated that the 90th percentile year did not provide an adequate margin of safety and that the natural source exemption was not appropriate. He added on behalf of BayKeeper that the natural source exemption puts the burden of determining when and where to provide exclusions on the Regional Board. He then addressed comments made by the County of Los Angeles and the EPA memo referenced by the County.

David Burhenn, representing the County of Los Angeles, thanked staff for separating the interim limits for Malibu Creek and Ballona Creek. He expressed concern that the changes made to the CEQA documents may not have followed the notice requirements.

Marianne Yamaguchi, Santa Monica Bay Restoration Project, commended staff for the proposed TMDL. She stated that the implementation schedule was fair and recommended that the Board adopt the TMDL as proposed.

Board Questions

Board member Nahai expressed concern about the 4-year reevaluation. He requested changes to language on page 6 of Attachment A regarding future adoption of NPDES permits. He requested changing the language that says a NPDES permit could be reopened or amended "after considering the input of interested persons" to "in accordance with applicable laws."

Michael Lauffer, staff counsel, replied that staff could make the change. He stated that the original language was included because it made it clear that there would be an opportunity for public input and because it was previously approved by State Board for the Trash TMDL.

Board member Nahai asked staff to change language on page 16 of Attachment A from, "the Regional Board shall revise the TMDL" to "reconsider the TMDL" so that it wouldn't tie the hands of future Board members.

The Board members and staff discussed paragraph 4 on page 16 regarding the 2-year due date for implementation plans. The board wanted to make it clear that in no case would implementation plans extend beyond the 10-year and 18-year timeframes.

Board member Nahai asked staff to explain why the natural source exclusion approach was discussed if it is not to be used in this TMDL.



Jon Bishop replied that natural source exemption approach was discussed in reference to the implementation of the bacterial objective, and is not a part of the TMDL itself. Staff took the opportunity as they were amending the Basin Plan for the TMDL, to add the natural source exclusion so that it could be used in the future when implementing the bacterial objective.

Board member Nahai asked if it was consistent for the TMDL to be based on existing bacterial objectives and on a calculation of an acceptable health risk.

Jon Bishop replied that the two concepts were consistent.

Board member Mindlin asked staff to address the City's request for guidance from the Board in case of a conflict among jurisdictional groups.

Jon Bishop replied that staff recognized the potential for disagreement. He stated that when the plans are submitted in two years, the jurisdictional groups could be reorganized. He added that staff would work closely with the groups over the next two years to make sure the groups work.

Board member Cloke asked about the issue of monitoring sites and directed staff to add a language clarifying that more sites were anticipated and that the list of sites on page 14 was not definitive. She then requested that language on page 10-15 of the binder be changed to from "do not cause" to "do not cause or contribute."

Michael Lauffer, staff counsel, suggested some language to include in the paragraph describing the natural source exclusion implementation procedure.

Board member Cloke asked staff to address the question of having a numeric standard for the reuse of the water, although she stated she was not arguing for it because she wanted to maintain the flexibility of the implementation plans.

Jon Bishop replied that numeric standards would open the TMDL up to misinterpretation.

Board member Cloke asked what kind of process would be required to refine the TMDL if the reference beach or the number of exceedance days were changed during the reevaluation at year four.

Michael Lauffer replied that decisions made at the four-year reevaluation would have regulatory effect and would have to be done as Basin Plan amendments. He added that it would involve a lot of procedural effort and time.

Chairperson Diamond asked why there was not a requirement to look at additional drains that could be causing impairment during the four-year period as was required in the dry weather TMDL.



Jon Bishop replied that the drains identified under the dry weather TMDL would be the same drains identified under the wet weather TMDL and there was no reason to require the dischargers to submit two of the same report.

Board member Cloke asked the City of Los Angeles to confirm that they understood that the implementation plan would have a specific time limit that would not automatically be approved for 18 years.

Traci Minamide, City of Los Angeles, replied that the City understood.

Board member Nahai asked Adam Ariki if the County of Los Angeles supported the TMDL overall and acknowledged that the Board should move forward.

Adam Ariki replied that the County did support the TMDL. He explained that the County's iterative approach was similar to the City's but since the county had no treatment facility, their plan could not work the same.

Board member McDonald asked if the County no longer operated Water Works 29, how would that affect the County's compliance with the TMDL.

Adam Ariki replied that it would not affect compliance, and that it would only leave them with fewer problems.

Chairperson Diamond asked Mark Gold what language he thought was appropriate for the definition of integrated resource plan, since he thought staff's definition was too vague. She then asked what the benefits a more specific definition would be.

Mark Gold replied that he felt other cities besides Los Angeles would not put as much effort into an integrated resource plan without a clearer definition. He then addressed the Board and staffs earlier discussion about the monitoring program and the number of drains not being monitored.

The Board members and staff discussed with Mark Gold how to increase monitoring. Jon Bishop stated that staff could add language to enhance the monitoring requirements in the northern Bay during the first 4 years of the TMDL.

Michael Lauffer added that the executive officer has the authority to request technical reports and the monitoring requirements did not have to be explicit in the TMDL.

Mark Gold added another comment that the reference system approach was chosen to deal with natural sources of bacterial and he did not think the natural source exclusion approach was necessary.

Before making a motion, Chairperson Diamond thanked staff and stakeholders for their work on the TMDL.



Dennis Dickerson pointed out that the two-year deadline for submittal of an implementation plan did not extend the total TMDL deadline of 18 years. He then pointed out language on page 7 and 17 of the handout that should be changed to make this clear.

The Board members and staff discussed several proposed language changes.

Chairperson Diamond moved to adopt the TMDL with the change sheet and with the following changes:

- *On page 6 of the handout from today, on the first paragraph regarding the implementation plan, substitute the phrase "in accordance with applicable laws" for the phrase "after considering input from interested persons"*
- *On page 16, remove number four and add language to the section above that says, "the Regional Board staff will bring to the Board these plans as soon as possible for consideration," and "under no circumstances will final compliance plans be more than 10 years for the nonintegrated approach or more than 18 years for the integrated approach"*
- *On page 16, change the language "shall revise" to "shall reconsider"*
- *On page 14, add a footnote with language regarding additional monitoring sites*
- *On page 10.15, add language regarding the natural source exclusion implementation*
- *On page 7.47, add additional resolution directing the executive officer to require enhanced monitoring in the northern bay*
- *On page 7 of the handout, in the last paragraph, insert the word "TMDLs" before the words "effective date"*
- *On page 17, change the second asterisk to be consistent with the fact that the Board deleted number 4.*

MOTION: By Chairperson Diamond, seconded by Board Member Cloke, and approved on a voice vote. No votes in opposition.

12. Enforcement Hearing Panel Recommendation-Mr. Kazuho Nishida and HLW Corporation

Dennis Dickerson gave the Board background information on the item. He informed them that this was a continuation of a hearing panel item, and that the Board needed to determine if there was any new information that could be presented today that was not presented to the Board at the panel hearing.

Robert Sams, staff counsel, added that staff and the two parties tried to work out an agreement between the panel hearing and today but that efforts failed.



Sonia Inglin spoke on behalf of HLW corporation and Sheila Welsch spoke on behalf of Mr. Nishida.

The Board accepted the letter submitted on behalf of HLW into the record, rejected the letter submitted on behalf of Mr. Nishida, and asked if there was any new information not heard at the hearing panel.

Ms. Welsch replied that at the time of the hearing, she was not aware of the person who controlled that UST fund. Now that she knew the contact, she had submitted an appropriate substitution request for an assignment of the claim.'

Ms. Inglin stated that if the claim was going to be assigned to Mr. Nishida and not HLW, the Board needed a confirmation from Mr. Nishida that he would continue groundwater monitoring

Chairperson Diamond stated that she had heard nothing that would change the decision made by the hearing panel. She added that the ACL was about past conduct and the fact that Mr. Nishida ceased groundwater monitoring. She therefore felt comfortable recommending the hearing panel decision to the Board.

The Board decided to discuss how to help the parties involved get the assignment made after voting on the recommendation of the hearing panel.

MOTION: By Chairperson Diamond, seconded by Board Member Cloke, and approved on a voice vote. No votes in opposition.

Michael Lauffer advised the Board that there were subsequent enforcement actions they could take to encourage compliance with 13267 orders to resume monitoring. However, the Board could not direct who should receive an assignment. He added that staff could work with HLW and Mr. Nishida with the cleanup fund to ensure that things are expedited.

Mr. Mindlin added that hearing panels are important and he hoped the Board would not begin to allow material at Board meetings that could have been heard at the panel.

14. Waste Discharge Requirements and Time Schedule Order- Malibu Country Mart Limited

Paula Rasmussen, chief, Enforcement and Groundwater permitting section, gave the staff report, including background and outstanding issues facing the project. She explained that this item was for Malibu Country Mart III, and that I and II would be heard at a later Board meeting. She reviewed the location of the site, the hydrological setting, and stated that there were currently no waste discharge requirements (WDRs) for the location. She reviewed the time schedule order that would accompany the WDRs and went over comments and the change sheets.



Mark Gold, Heal the Bay, felt the item today should be heard along with Malibu Country Mart I and II because everyone thinks of Malibu Country Mart as one site. He stated that it was ridiculous that Malibu regulations precluded all three sites from coming up with a centralized treatment system.

Board Questions

Board member Cloke asked if there would be a technical difference if all three sites were heard at once and if the water quality would therefore be better.

Mark Gold replied that it would be more cost effective to deal with one centralized system and there would be fewer operation and maintenance issues.

Board member Buckner-Levy asked who the owner of Malibu Country Mart was.

Greg Kozak, Koss Real Estate, replied that they were the general partner for all three but that there were two partnerships that owned them independently.

Board member Buckner-Levy and Mr. Kozak discussed the ownership of the facility and the difficulty it created in developing a centralized system. Mr. Kozak emphasized that he supported the WDRs and TSO.

Board member Cloke requested that the TSO be changed to shorten the amount of time allowed to tear up the parking lot and install leach fields. She suggested that the final date be changed from December 1, 2004 to December 1, 2003, with discretion given to the Executive Officer to allow an additional nine months.

Greg Kozak stated that it may take until December 2004 to go through design, bidding, permitting, and fund raising.

Board member Cloke suggested that the extension be increased to 12 months.

Robert Sams, Staff counsel, explained that the Board could not affect planning and zoning requirements, or address existing partnerships. He stated that all they could do was tie the three WDRs together with the same timeframe and requirements.

Chairperson Diamond moved to accept the WDRs and TSO and to direct staff to bring the items for Malibu Country Mart I and II before the Board with the same requirements and end date for compliance.

MOTION: By Chairperson Diamond, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.



15. Waste Discharge Requirements and Time Schedule Order- Malibu Equilon

Paula Rasmussen gave the staff presentation, including background, hydrological conditions and the requirements of the WDRs and TSO.

Board member Cloke asked staff if they had spoken with the discharger about her suggested changes to the proposed monitoring program and the TSO.

Ms. Rasmussen replied that the discharger had no concerns with the time change.

Board member Cloke moved to accept the item with the following changes to page 15-39: To No. 1, change the date to April 1, 2003, to No. 2, change the date to June 1, 2003, and to No. B, change the date to December 1, 2003.

MOTION: By Board member Cloke, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.

16. Waste Discharge Requirements and Time Schedule Order- Dukes of Malibu

Paula Rasmussen waived the staff report but reviewed the change sheet.

Mark Gold, Heal the Bay, expressed support for the changes as stated.

Board member Cloke reiterated her questions from the previous item concerning the time schedule.

Ms. Rasmussen stated that staff discussed the questions with the discharger and that they had no concerns.

Board member Cloke moved to accept the item with one change to page 16-39, Item 1B so that it read, "discharger shall abide by December 1, 2003."

MOTION: By Board member Cloke, seconded by Chairperson Diamond, and approved on a voice vote. No votes in opposition.

Adjournment of Current Meeting

The meeting adjourned at 4:55 pm. The next regular meeting is scheduled for January 30, 2002, at the Metropolitan Water District of Southern California, 700 North Alameda Street at 9:00 a.m.

Minutes adopted at the _____ Regular Board meeting submitted/amended.

Written and submitted by: _____.

